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48276 7590 04/17/2008				
TIFFANY & BOSCO				
CAMELBACK ESPLANADE II, THIRD FLOOR				
2525 EAST CAMELBACK ROAD				
PHOENIX, AZ 85016				
EXAMINER				
LUGO, CARLOS				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/055,757
Filing Date: January 22, 2002
Appellant(s): BARANSKI, RICH

Richard Oney
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 15, 2007 and correction made on January 7, 2008 appealing from the Office action mailed on May 12, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

3,976,317	COLLIER	8-1976
2,124,970	BAGLEY	7-1938
5,757,269	ROTH	5-1998
5,257,841	GERINGER	11-1993
5,990,579	RICCI	11-1999
5,825,288	WOJDAN	10-1998
6,124,792	SHOEN	9-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-10,14-17, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,976,317 to Collier in view of US Pat No 2,124,970 to Bagley (Bagley '970).

Regarding claim 1, Collier discloses an adjustable door guide latch slot assembly comprising a striker plate (21) having a latch opening (26), and a door guide.

The door guide has a channel sized to retain a door therein that includes an inner surface and an opening. The opening of the door guide is larger than the opening of the striker plate.

The striker plate may be adjustably affixed directly to the door guide inner surface so that the striker plate latch opening aligns with the latch of the door.

However, Collier fails to disclose that the door guide is adapted to retain the door such that the door can move slidably along the door guide when the door is retained. Collier discloses that the door guide retain the door, however the door will

not slide along the door guide because the door used in the device described by Collier is a sliding door, not a rolling door.

Bagley '970 teaches that it is well known in the art to have a door guide (23) adapted to retain a rolling door (4 with the wheels) such that the rolling door can move slidably along the door guide when the door is retained having a similar latch mechanism.

It would have been obvious to one having ordinary skill in the art of door latches at the time the invention was made to use the latch mechanism described by Collier with a door that can slide along the door guide, i.e., a rolling door, as taught by Bagley '970, since the fact that the door being a rolling door instead of a sliding door is considered as a design consideration within the art of door latches since it would not affect the latch mechanism. Further, Bagley '970 teaches a similar latch slot mechanism (23,25 and 56) so as to give support that it would be obvious to make the combination since both devices use a similar latch slot assembly.

As to claims 2 and 14, Collier discloses that the assembly further comprises a recessed area on the door guide inner surface that is large enough so that the striker plate may be placed flat within said recessed area.

As to claims 3 and 15, Collier illustrates that the depth of the recessed area is at least as great as the thickness of the striker plate.

As to claims 4-6 and 16, Collier illustrates that the door guide opening has alignment slots (39) for accommodating various positions of placement of the striker plate against the door guide inner surface.

As to claims 7-10 and 17, Collier discloses that the striker plate has a first set of fastener openings (38) for receiving fasteners to affix the striker plate to the door guide.

As to claim 22, Collier, as modified by Bagley '970, discloses a method of adjust and align a latch slot in a fixed door guide with a slidable door latch.

Claims 11-13 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,976,317 to Collier in view of US Pat No 2,124,970 to Bagley (Bagley '970) as applied to claims 1 and 14 (only for claims 11-13 and 18) above, and further in view of US Pat No 5,757,269 to Roth et al (Roth).

Regarding claims 11-13,18 and 19, Collier, as modified by Bagley '970, fails to disclose that the assembly further comprises a security device having a latch port for accepting the door latch whereby the security device is affixed to the adjustable striker plate to accommodate the position of the door latch.

Roth teaches that it is known in the art to have a security device in combination with a latch slot assembly.

It would be obvious to one having ordinary skill in the art at the time the invention was made to have a security device, as taught by Roth, into a device as described by Collier, as modified by Bagley '970, in order to provide verification of the latch bolt being in the proper engaged position, thereby ensuring security to the locking assembly.

As to claim 20, Collier illustrates that the depth of the recessed area is at least as great as the thickness of the striker plate.

As to claim 21, Collier illustrates that the door guide opening has alignment slots (39) for accommodating various positions of placement of the striker plate against the door guide inner surface.

(10) Response to Argument

The applicant argues that Collier door guide is not a guide adapted to retain a door slidably therein, as required in the claims (Page 6 Point 1 Line 7).

First, the invention is drawn to an adjustable door guide latch slot assembly intended to be use for aligning a sliding door fixed to the door guide; not to the combination.

Second, the door guide claimed is adapted to or capable of retain a door slidably therein.

The recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

As seen in attachment #1, the door guide is capable or is adapted to retain the door slidably therein, i.e., from moving left to right or back and forward when the door is locked in place.

The applicant also argues that it would not be obvious to combine Collier and Bagley (Page 7 Point a Line 1).

A conclusion of obviousness may be made from common knowledge and common sense of the person of ordinary skill without any specific hint or suggestion in a particular reference. *In re Bozek*, 416 F. 2d 1385, 1390 163USPQ545, 549 CCPA 1969.

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Providing a sliding door as described by Bagley in a door assembly as described by Collier is mere a design consideration within the art. Bagley and Collier are considered as analogous art; latch assemblies that have a door guide.

As shown in attachments #1 and #2, each device comprises a door guide that has essentially the same structure that includes a striker plate that accepts a latch that is mounted on the door.

If the door guides are essentially the same in structure, then it is obvious that it could use any type of door, i.e., that moves horizontally or vertically. Therefore, the door used is a design consideration within the art since it would not affect the function of the door guide and the function of the latch.

The applicant also argues that Collier fails to disclose a recessed area on the door guide inner surface (Page 9 Point b Line 14).

As seen in attachment #3, collier discloses a recessed area on the door inner surface where the striker plate 21 is positioned.

The applicant also argues the rejection in view of Collier, as modified by Bagley and Roth (Page 10 Point 2 Line 1), especially that there is no suggestion and/or motivation for the combination.

The use of a security device, as the one described by the applicant, is well known in the art. The applicant even admits it in Page 6 Line 30 of the specification, where you can find this type of securing device in US Pat No 6,124,792.

Additionally, the examiner has provide attached to the examiner's answer and for the record references US 5,990,579, US 5,257,841 and US 5,827,288 of common

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examples of "securing devices" that are well known used with a latch member on a door.

Further, the claims only requires a security device having a latch port for accepting the door latch, whereby the security device is affixed to the adjustable striker plate to accommodate the position of the door latch. The claims do not requires any specific function of the security device with respect to the latch. At the instant, any type of securing device that is related to accepting a latch through a striker plate is capable of being used for any type of function, like detecting position of the latch, as an alarm, etc. Since the use of security devices is well known in the art, an ordinary skill in the art of latches could provide the security device into the device described by Collier, as modified by Bagley.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Carlos Lugo/

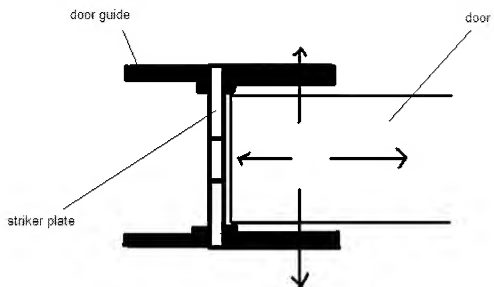
Primary Examiner, Art Unit 3673

Conferees:

Patricia Engle /ple/

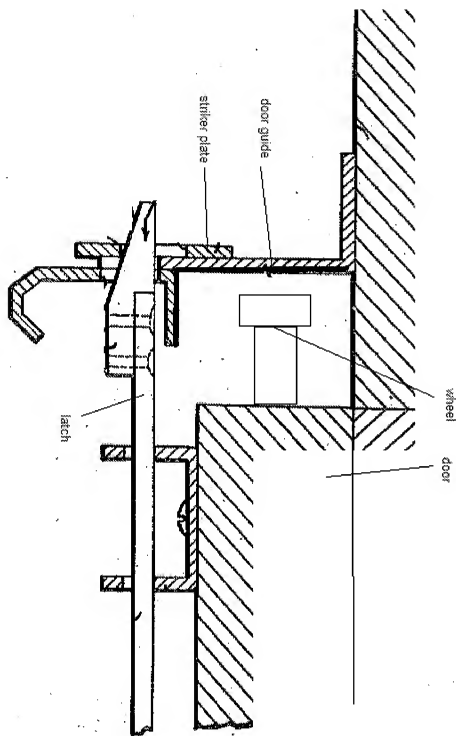
Meredith Petravick /mcp/

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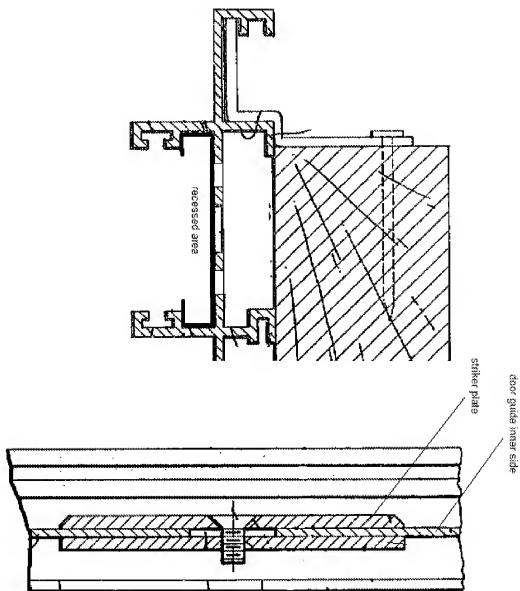
attachment #1

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attachment #2

Art Unit: 3673



attachment #3